

Bur. of Consumer Financial Protection

§ 1010.504

State Certification is to lessen the administrative burden on the individual developer, arising where there are duplicative state and federal Federal registration and disclosure requirements, without affecting the level of protection given to the individual purchaser or lessee. If the Director determines that a state has adopted and is effectively administering a program that gives purchasers and lessees the same level of protection given to them by the Interstate Land Sales Registration Program, then the Director shall certify that state. Developers who accomplish an effective registration with a state in which the land is located after the Director has certified the state may satisfy the registration requirements of the Director by filing with the Director materials designated by agreement with certified states in lieu of the federal Federal Statement of Record and Property Report.

(b) A state that is certified by the Director shall be known as the situs certified state for all land located within its borders.

(c) After a developer is effectively registered with the Director through a certified state, the Director has the same authority over that developer as the Director has over developers who file directly with the Director. This includes the authority to subpoena information and to examine, evaluate and suspend a developer's registration under sections 1407(d) and (e) of the Act and §1010.45(b)(1) and (b)(2) of these regulations.

(d) The prohibitions against the use of the Property Report contained in §1010.29 apply to state disclosure materials and substantive development standards. In addition, for purposes of this paragraph, references made to the Director, ILSRP and the Bureau in §1010.29 will include a reference to the equivalent state officer or agency.

(e) The Purchaser's Revocation Rights, Sales Practices and Standards rules contained in part 1011 of these regulations apply to developers who register with the Director through certified States. All of the rules in part 1011 apply, excepting the disclaimer statement in §1011.50(a) which is modified to read as follows: "Obtain the Property Report or its equivalent, re-

quired by Federal and State law and read it before signing anything. No Federal or State agency has judged the merits or value, if any, of this property."

(f) Developers are obliged to pay filing fees as set forth in §1010.35 of this part.

§ 1010.503 Notice of certification.

(a) If the Director determines that a state qualifies for certification under §1010.501(a) or (b), the Director shall so notify the state in writing. The state will be effectively certified under the section and as of the date specified in the notice.

(b) If the Director determines that a state does not meet the standards for certification, the Director shall so notify the state in writing. The notice will specify particular changes in state law, regulations or administration that are needed to obtain certification. The Director shall not be bound in advance to certify a state that makes the suggested changes if other deficiencies become apparent at a later time.

(c) The Director's final determination to accept or reject a State's Application for Certification of Land Sales Program shall be published in the FEDERAL REGISTER.

(d) A state's certification will remain in effect until it is voluntarily suspended by the state or withdrawn by the Director. A state can voluntarily suspend its certification by notifying the Director in writing. The suspension will take effect as of the date and time specified in the notice to the Director, or upon receipt by the Director if no date is specified. The Director may withdraw certification as provided in §1010.505.

§ 1010.504 Cooperation among certified states and between certified states and the Director.

(a) By filing an Application for Certification of State Land Sales Program pursuant to §1010.502, a state agrees that, if it is certified by the Director, it will:

(1) Accept for filing and allow to be distributed as the sole disclosure document, a disclosure document currently in effect in the situs certified state. Only those documents filed with the

situs state after certification by the Director must automatically be accepted by other certified states;

(2) Certify copies of all disclosure documents, amendments and consolidations filed with it by developers of land located within its borders for and as needed by developers required to submit certified copies to the Director and all other certified states. The certification shall indicate whether the documents are currently in effect. The certification should be in the format set forth in section XXIX of the appendix to this part: Form for Certification for Disclosure Documents.

(3) Assist and cooperate with the Director and other certified states by requiring that developers of land within its borders amend disclosure documents if any change occurs in any representation of material fact required to be stated in the disclosure documents, including a change resulting from the developer's compliance with the requirements of the law in another certified state. The state shall require developers to send certified copies of the amended documents to the Director and requesting certified states. All amendments to such materials, which reflect changes in material facts regarding the subdivision, shall be submitted to the situs certified state authorities within 15 days of the date on which the developer knows, or should have known, of such change. Certified copies of the disclosure documents shall be submitted by the developer to the Director and the other certified states within 15 days after it becomes effective under the situs certified state laws.

(4) Continue to effectively operate its Land Sales Program as that Program is described in the Application for Certification and as it was certified by the Director.

(5) Assist and cooperate with the Director by monitoring the sales practices of developers registered with it directly or through another certified state, and by reporting to the Director any violations of the Act, including but not limited to the required contract provisions, revocation rights and anti-fraud provisions of 15 U.S.C. 1703, or the regulations.

(b) A state required to accept the disclosure documents of another situs certified state pursuant to paragraph (a)(1) of this section, may, in its discretion, require the developer to furnish it with copies certified pursuant to paragraph (a)(2) of this section.

(c) No state shall be prevented from establishing substantive or disclosure requirements which exceed the federal Federal standard provided that such requirements are not in conflict with the Act or these regulations. For example, a certified state may impose additional disclosure requirements on developers of land located within its borders but may not impose additional disclosure requirements on developers whose disclosure documents it is required to accept pursuant to paragraph (a)(1) of this section. However, a certified state may impose additional nondisclosure requirements on out of state developers even though the developer is registered in the certified state in which the land is located.

(d) After a developer is effectively registered with a certified state through a situs certified state, either or both certified states may exercise full enforcement authorities and powers over that developer according to applicable law and regulations.

(e) The Director shall cooperate with the certified states by offering a forum for nonbinding arbitration of disputes between two or more certified States arising out of the State Certification Program.

§ 1010.505 Withdrawal of State state certification.

(a) The Director shall periodically review the laws, regulations and administration thereof, of a certified state. If the Director finds that, taken as a whole, the laws, regulations or administration thereof, no longer meet the requirements of subpart C, then the Director may issue a notice to withdraw the certification of that state.

(b) The notice of proceedings to withdraw a state's certification will be issued to the state by the Director pursuant to § 1012.236. The Director may, after notice and after an opportunity for a hearing, pursuant to § 1012.237, issue an order withdrawing certification. In the event that a withdrawal